FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE
Criminal application No. 7790 of 2005
in
Cri. Appeal NO. 1118 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders

Mr. Ganesh Gole for applicant .
Mr. D.S. Mhaispurker APP for Respondents

CORAM: B.H. MARLAPALLE
&
SMT. R.S. DALVI JJ.

DATE:30/1/2006

P.C.:

Heard Mr. Gole learned counsel for the applicant, who has been convicted and sentenced for an offence punishable under section 302 IPC., by the learned 11th Ad-hoc Additional Sessions Judge, Sewree, Mumbai, in Sessions Case No. 203 of 2005. Criminal Appeal No. 1118 of 2005 against the said order of conviction and sentence has been admitted by this court on 19.2.2005. Hence this application for bail and for suspending the

order of sentence.

The deceased Jaganath Keru Das was attacked on 29.11.2004 at about 7.30 a.m., near Kurla Railway Station and as a result of the injuries sustained by him with weapons like sickle, chopper etc., he died on the spot. In all four accused were put on trial in Sessions Case No. 203 of 2005 and by his order dated 25.10.2005 the learned 11th Ad-hoc Additional Sessions Judge, Sewree, has convicted the accused no.1 for the offence under section 302 IPC.., while the other accused have been acquitted.

The prosecution examined in all 14 witnesses. This case was based on the ocular evidence of P.W. 1 Mangesh, P.W. 6 Arun Sakpal and P.W. 9 Santosh Kamble. The trial Judge has discarded the evidence of P.W. 6 Arun and P.W. 9 Santosh, who turned hostile. P. W. 4 Dr. Sawant was examined to prove the post mortem report at exhibit 21. The evidence of the sole eye witness Mangesh has been

found to be reliable by the trial court to sustain the charge against accused no. 1.

The reasoning given by the trial court in accepting the testimony of P. W. 1 is based on the evidence of PW. no.3 Keru, the father of the deceased and P.W. 4 Dr. Sawant. We have also perused the post mortem report at exhibit 21 and also noted that the FIR at exhibit 14 was filed by P.W.1 at the first instance.

Having considered the reasoning set out by the trial court and accepting the evidence of P.W. 1 Mangesh, we are satisfied that this is not a fit case to suspend the order of sentence and release the applicant on bail. The application, therefore is rejected. However, the applicant is at liberty to apply for an early hearing of the appeal on the paper book being ready.

(SMT. R.S. DALVI J.) (B.H. MARLAPALLE J.)